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10 ISIAH EUGENE SIMON

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 ISIAH EUGENE SIMON, an
14 individual,

15 Plaintiff,

16 vs.

17 ONIKA TANYA MARAJ, p/k/a NICKI
18 MINAJ, an individual; UNIVERSAL
19 MUSIC GROUP, INC., a Delaware
20 Corporation; and DOES 1-10, inclusive.

21 Defendants.
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Case No.: 18-cv-3671

PLAINTIFF'S COMPLAINT FOR:

1. **COPYRIGHT INFRINGEMENT;**
2. **VICARIOUS AND/OR CONTRIBUTORY COPYRIGHT INFRINGEMENT**

[JURY TRIAL DEMANDED]

1 Plaintiff Isiah Eugene Simon (hereinafter “Plaintiff”), by and through his
2 undersigned attorneys, hereby prays to this honorable Court for relief based on the
3 following:

4 **JURISDICTION AND VENUE**

5 1. This action arises under the Copyright Act of 1976, Title U.S.C., §
6 101 *et seq.*

7 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331
8 and 1338 (a) and (b).

9 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
10 1400(a) in that this is the judicial district in which a substantial part of the acts and
11 omissions giving rise to the claims occurred.

12 **PARTIES**

13 4. Plaintiff ISIAH EUGENE SIMON (“Plaintiff”) is an individual and a
14 resident of the State of California.

15 5. Plaintiff is informed and believes and thereon alleges that Defendant
16 ONIKA TANYA MARAJ p/k/a NICKI MINAJ, (“MINAJ”), is an individual and a
17 resident of the State of California.

18 6. Plaintiff is informed and believes and thereon alleges that Defendant
19 UNIVERSAL MUSIC GROUP, INC. (“UMG”), is a corporation organized and
20 existing under the laws of the State of Delaware with its principal place of business
21 located in Santa Monica, California.

22 7. The true names and capacities, whether individual, corporate,
23 associate, or otherwise, of defendants DOES 1 through 10, inclusive, are unknown
24 to Plaintiff, which therefore sues said defendants by such fictitious names.
25 Plaintiff will seek leave of this Court to amend this Complaint to include their
26 proper names and capacities when they have been ascertained. Plaintiff is
27 informed and believes, and on that basis alleges, that each of the fictitiously named
28 defendants participated in and are in some manner responsible for the acts

described in this Complaint. Defendants MINAJ, UMG and DOES 1 through 10 are hereinafter collectively referred to as “Defendants.”

8. Plaintiff is informed and believes and thereon alleges that at all times relevant hereto each of the Defendants was the agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee of the remaining Defendants and was at all times acting within the scope of such agency, affiliation, alter-ego relationship and/or employment; and actively participated in or subsequently ratified and adopted, or both, each and all of the acts or conduct alleged, with full knowledge of all the facts and circumstances, including, but not limited to, full knowledge of each and every violation of Plaintiff’s rights and the damages to Plaintiff proximately caused thereby.

FACTUAL BACKGROUND

9. Plaintiff is an artist who created the following unique design of an inverted heart comprised of a woman’s chest and bikini (“Plaintiff’s Heart Design”), as seen in the following images:



10. On or about February 14, 2015, Plaintiff applied for and received a registration from the US Copyright Office for his unique design. The copyright registration number is VA 1-952-325.

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11. Defendants brazenly stole Plaintiff's Heart Design and affixed it to shirts that promote MINAJ, as seen in the following image:



(the "Infringing Shirt").

12. UMG offers the Infringing Shirt for sale on its website.

FIRST CLAIM FOR RELIEF
FOR COPYRIGHT INFRINGEMENT
(Against All Defendants)

13. Plaintiff repeats, realleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

14. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to Plaintiff's Heart Design prior to creating the Infringing Shirt.

15. The heart design on the Infringing Shirt is substantially similar to Plaintiff's Heart Design.

16. Pursuant to 17 U.S.C. 502, Plaintiff is entitled to a preliminary and permanent injunction to prevent future infringement of Plaintiff's Heart Design.

17. Pursuant to 17 U.S.C. 503, Plaintiff prays that this Court impound all remaining Infringing Shirts within Defendants' possession, custody or control.

18. Pursuant to 17 U.S.C. 504, prior to final judgment in this action, Plaintiff will elect whether to recover: (a) his actual damages plus Defendants'

1 profits from sales of the Infringing Shirts; or (b) statutory damages.

2 19. Pursuant to 17 U.S.C. 505, Plaintiff prays that this Court award
3 Plaintiff his attorneys' fees and costs incurred in connection with this lawsuit.

4 **SECOND CLAIM FOR RELIEF**
5 **FOR VICARIOUS AND/OR CONTRIBUTORY COPYRIGHT**
6 **INFRINGEMENT**
7 **(Against all Defendants)**

8 20. Plaintiff incorporates all prior allegations as set forth fully herein.

9 21. Plaintiff is informed and believes, and on that basis alleges, that
10 Defendants knowingly induced, participated in, aided and abetted and profited
11 from the copyright infringement alleged above.

12 22. Plaintiff is informed and believes, and on that basis alleges, that
13 Defendants are vicariously liable for the copyright infringement alleged above
14 because they had the right and ability to control the infringing conduct and had a
15 direct financial interest in the infringement.

16 23. Pursuant to 17 U.S.C. 502, Plaintiff is entitled to a preliminary and
17 permanent injunction to prevent future infringement of Plaintiff's Heart Design.

18 24. Pursuant to 17 U.S.C. 503, Plaintiff prays that this Court impound all
19 remaining Infringing Shirts within Defendants' possession, custody or control.

20 25. Pursuant to 17 U.S.C. 504, prior to final judgment in this action,
21 Plaintiff will elect whether to recover: (a) his actual damages plus Defendants'
22 profits from sales of the Infringing Shirts; or (b) statutory damages.

23 26. Pursuant to 17 U.S.C. 505, Plaintiff prays that this Court award
24 Plaintiff his attorneys' fees and costs incurred in connection with this lawsuit.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

27 1. For a preliminary and permanent injunction to prevent future
28 infringement of Plaintiff's Heart Design;

1 2. For an Order impounding all remaining Infringing Shirts within
2 Defendants' possession, custody or control;

3 3. For an award of either: (a) Plaintiff's actual damages plus Defendants'
4 profits from sales of the Infringing Shirts; or (b) statutory damages; and

5 4. For an award of attorneys' fees and costs incurred in connection with
6 this lawsuit

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9 Dated: May 1, 2018

STALWART LAW GROUP

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11 By: /s/ Dylan Ruga
12 DYLAN RUGA
13 Attorneys for Plaintiff
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DEMAND FOR JURY TRIAL

Plaintiff Isiah Eugene Simon demands a trial by jury.

Dated: May 1, 2018

STALWART LAW GROUP

By: /s/ Dylan Ruga
DYLAN RUGA
Attorneys for Plaintiff